IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 845 OF 2005

Shyamu Lakhu Raut ... Appellant

V/s

Maruti Bhagoji Adnaik
(since deceased through heirs) ... Respondents

Mr. S.M. Railkar for the appellant.

Mr. T.S. Ingale for Resp. Nos. 1-A, 2 & 3.

CORAM: P.V. KAKADE, J.

DATED: 29TH AUGUST, 2005

P.C.:

1. Heard learned counsel for both parties. Perused the record.

2. This is an appeal preferred against the judgment and order passed by the District Judge, Kolhapur, dated 15.10.2004 dismissing the appeal and confirming the judgment and order passed by the Civil Judge, Jr.Divn., Kolhapur, dated 3.11.1999 decreeing the suit of the plaintiffs against the defendant directing to hand over the vacant possession of the suit property and further direction regarding enquiry in respect of mesne profits.

3. The plaintiffs filed the suit alleging that the defendant was in unlawful possession of the suit property and hence suit came to be filed.

Defendant raised various contentions in order to frustrate the suit.

4. The learned Trial Judge adjudicated the dispute on merits and came to the conclusion that the defendant was in unlawful possession of the suit property and decree came to be passed.

The appeal was carried to the District Court, The learned District Judge, Kolhapur, after hearing both parties on the basis of available evidence, came to the conclusion that the appeal had no merits and dismissed the same. Hence the present appeal.

5. Initially, it must be noted that there is absolutely no substantial question of law involved in this appeal and the entire dispute is based on issues of fact which are seen to be properly adjudicated by both the Courts below while holding that the defendant had no right, title and interest in the suit property and, as such,

the suit came to be decreed. Without further elaboration, therefore, I hold that the appeal has no merits and there is no substantial question of law involved.

In the result, the appeal stands dismissed with no order as to costs. Consequently, Civil Application No. 1381 of 2005 also stands dismissed with no order as to costs.

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